

1846-005  
Lee Co.

Chancery Causes: Henry Colson vs. John Colson, Jr. &

Shoemaker, Shumate, Ely, McPherson, Shumaker, Littrell, Norvell,  
Bush

CA Estate Dispute  
T-Property

Will: 1812 : Anna Colson Lee County



To The Hon Saml V Fulkerson Judge of the Circuit Court of  
La County

Henry Colson of The said County respectfully represents that in the year 18      that one John Hayes and one Henry Hayes were seized in fee of a Certain Tract of land Situated in The western portion of The said County and supposed to contain about 130      acres and bounded <sup>now</sup> on the East by The lands of Robert Mc Elly on the North by The lands of said Elly and The lands of Charles Barry on the West by The lands of Samuel Mc Pherson and on the South by The lands of one John Colson S<sup>r</sup> and The lands that belong to The heirs of Harry Colson Dec<sup>d</sup> And that on the day of      18      The said Hayes bargained and sold The said land to your Orator and one Harry Colson for The sum of \$300. and that The said Hayes agreed to make to your Orator and The said Harry a right in fee to the said land by the day of      18      Your Orator states that on the day of November 1834 that he paid The said Hayes in Consideration of The said tract or parcel of land The sum of \$150. being one half of The whole amount The said Hayes had sold The whole of The said land to your Orator and The said Harry, <sup>for</sup> and that on the day of      18      The said Harry in Consideration <sup>part of</sup> of The said land paid The said Hayes The remaining half of The purchase money of said land, and that on the 1<sup>st</sup> day of November 1834 The said Hayes in The absence of your Orator made to The said Harry a right in fee to The whole of The said tract of land and <sup>said Hayes</sup> went immediately to some of The western Counties Your Orator states that at The time the said Harry and himself purchased said land of said Hayes that it was their mutual and special agreement that your Orator was to have for The said sum of \$150. paid to said Hayes in Consideration of said land all that portion of said tract or parcels of land lying west of a branch running through said land known by The name of The land branch it being the largest branch that passes through said land



And that after said Hayes had made to said Harry a  
right to all of the said land The said Harry agreed and  
promised to make to your Orator a right in fee to all the  
said land west of said branch in consideration of the  
sum of \$150. paid to said Hayes as before stated The  
said being their Original Contract at the time of the purchase  
of said land. And as a part fulfillment of the said Harry's  
agreement and Contract gave to your Orator full posses-  
sion of the said land west of said branch which your  
Orator held and greatly improved said land for at least  
12 years which was in sight of said Harry's dwelling  
which possession the said Harry always recognized as lawful  
and just. Your Orator states that the said Harry and  
himself were brothers and were not disposed to treat each  
other with that strictness that might be expected of strangers  
and that if the said Harry had continued to live that there  
would have been no need of this suit but that he departed  
this life on the day of 18 without making  
your Orator any right to said land, and that your Orator  
has had possession of said land ever since the death of the  
said Harry. And that the said Harry left the following  
persons who are his only heirs (viz) John Colson, Rebecca Shumate,  
Balis Shumate, William Colson, Gelena Colson, Harry Colson  
and Sarah Colson the widow of the said Harry Dec<sup>d</sup> And  
that your Orator being without any adequate remedy at  
Common law and only relieved in a Court of Equity his  
prayer therefore is that the said John Colson, Rebecca Shumate,  
Balis Shumate, William Colson, Gelena Colson, Harry Colson  
and Sarah Colson be made parties defendants to this bill  
and that they be required to answer the several allegations thereof  
upon their Corporate Oaths and that as the said William Colson,  
Gelena Colson and Harry Colson are under the age of 21 years  
that a guardian ad litem be appointed for them, and that upon  
a final hearing of this case that your Hon<sup>ty</sup> will decree to your Orator all  
such right and title to the said land <sup>west of said branch</sup> as the said Harry had at his death

and that your Hon<sup>ty</sup> will extend to your Orator such other  
and further relief as the nature of his case may require  
that is consistent with Equity and justice, May the  
Commonwealth's writ of Sp<sup>ec</sup> issue directed to and in  
duty bound he will comply to

Ely for Compt<sup>er</sup>



b 8.07  
 y 1.50  
 a 15.00  
 s 9.00  
 d - 11.45  
 M. 3.00  
 Sur. 4.00  
 Dr 2.50  
 Grand 19.75  
 74.27

Henry Colson

vs } Bill

John Colson & others

Bill filed 22<sup>nd</sup> May 1837  
 all cont. May, June  
 July, Aug. 1837  
 September Rules 1837  
 Answers of Guardian added  
 filed 11<sup>th</sup> Nov. 1837  
 Act Rules set for hearing by  
 18<sup>th</sup> Nov. 1837 May continued  
 18<sup>th</sup> Nov. - April Report Com. Conf.  
 Deed made & Stricklin from  
 Bocket,

went out to  
 break up of bonds  
 issued there for  
 1<sup>st</sup> 1837 with return



To the Honorable, Samuel V. Fulkerson Judge  
of the Circuit Court of Lee County.

The Separate Answer of William Colson,  
Galena Colson, and Harvey Colson, infant heirs  
of Harvey Colson deceased by David Miller, <sup>their</sup> Guardian  
ad litem to the bill of Complaint exhibited  
in this Court against these defendants & others.

These defendants by their Guardian after  
reserving to themselves the benefit of the  
usual exceptions to Complainants' bill, for  
answer thereto say that they are minors  
under the age of 21 years and are not  
capable of judging correctly of the facts as  
stated in Compts. bill, and therefore they  
neither admit nor deny the Compts' alle-  
gations, though they ask that the Compts.  
be required to proceed as equity requires.

The Court of equity being the peculiar guar-  
dian of the rights of infants, <sup>therefore</sup> they ask the  
protection of the Court in any and every  
thing that affects their rights in the  
premises. And having answered they pray  
to be dismissed with their costs.

David Miller

Guardian ad litem,

Virginia Lee County to wit:

This day David Miller personally ap-  
peared before me the undersigned Clerk of the  
Circuit Court of Said County and  
made oath that the above answer is true  
to the best of his knowledge and belief.

Given under my hand this the 3<sup>rd</sup> day of  
September 1859.

R W Hamilton Clerk



Henry Colson  
vs. Answer of  
Guardian  
ad litem  
John Colson & others

44  
29  
37  
110



To the Honorable Samuel V. Fulkerson, Judge of the Circuit Court of Lee County, the separate answer of Bailis <sup>& Rebecca his wife,</sup> Shumate, John W. Colson, and Sarah Colson, To a bill in Chancery filed in said Court against them and others by Henry Colson, respectfully shews:

That these respondents, saving now and at all times hereafter the benefit of all just & proper exceptions to the said bill, yet for answer thereto, or to so much thereof as they are advised it is material they should answer, they say: That these respondents have no personal knowledge of the contract alledged by the complt to have been made between him and Harvey Colson deceased; but they do not admit such contract to have been made, and they claim all the benefit & advantage to which they are entitled by law from the fact, stated by the complt in his bill, that the alledged contract under which he now claims was a verbal one & not written. These respondents further state, that the deed ~~made~~ stated in the bill to have been made by <sup>the</sup> ~~Harvey~~ <sup>Harvey</sup> to Arva (not Harvey) Colson decd in his lifetime was made, as appears by its date, on the 15<sup>th</sup> day of November 1834, which deed, with the certificates thereto annexed, is filed herewith as part of this answer marked (L.). It appears therefrom, that the pretended claim of the complt is of very ancient date, and goes back to a period long before the said Arva Colson's death, which occurred about the day of October 1842. These respondents contend, that the lapse of so great a length of time without the complt having attempted till now to claim his pretended contract, and his sleeping upon it for more than twenty five years, and for many years after Arva Colson's death, is sufficient to mark the said claim as pretentious & unjust, and they insist upon the <sup>limitation and</sup> strong presumption in their favor arising from the facts. They further state, that the complt lived, up to said



Arva Colson's death, very near him - within two or three hundred yards, and was constantly with him during his last illness which was a protracted one of some months continuance, and was present during that illness when said Arva made his will; yet, during all that time, as far ~~as~~ these respondents know or believe, he set up no such claim as he now advances. It is apparent to these respondents, that the comp't has now stumped up his claim at a time when he has taken care that said Arva Colson cannot meet him, when it is difficult (probably impossible) to obtain the evidence necessary to sustain <sup>of these respondents,</sup> ~~these~~ rights, & when his only antagonists now are a widow not informed of her late husband's business transactions, and some children all of whom were then, & some are now, infants having <sup>and no knowledge where to find proof relating to it</sup> no knowledge of such matters.

It is true, that the comp't has been in possession, & was at the time of Arva Colson's death, of a small portion of that portion of the land he now claims, consisting of some eight or ten acres; but how he obtained such possession first, they do not know; they do not admit that it was obtained under the contract set forth in the comp't's bill. Since Arva Colson's death the respondent Sarah Colson his widow, who has devoted herself to the care & raising of her family, has permitted the comp't to occupy said small piece of ground, because she had besides as much cleared land as she could well cultivate, & comp't was her brother-in-law & in rather narrow circumstances. These respondents file herewith, as part of this answer, a copy of the aforesaid will of Arva Colson marked (M.).

Having thus fully answered the comp't's bill, and denying generally all matters not herein already admitted, denied, or avoided, they pray to be

hence dismissed with their costs, &c.

Johnston, for Resp'ts

Sworn to in open Court by the respondent  
Bailis Shumate, Oct. 10<sup>th</sup> 1859.

R. W. Hamblen Clk

Witness my hand & seal of office

1



Bailif Shumate Vol. (J.)

ad. } Answer

Henry Colson

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Exhibits filed.

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filed in Civil Court 10<sup>th</sup>  
day of October - 1859.



Henry Colson Complt

vs  $\frac{1}{2}$  In Chancery

John Colson & others, Defs

This Cause came on again to be heard upon the papers heretofore read in the Case and the orders therein made and upon the decree rendered in the Case on the 13<sup>th</sup> day of October 1860 by which Henry J Morgan was appointed Commissioner to Convey to the Complainant from the Defendants the land in said decree mentioned and upon the report of said Commissioner Morgan bearing date on the 31<sup>st</sup> day of March 1861 to ~~which there are~~ ~~no exceptions~~ of his having conveyed the said land in the decree mentioned from the Defendants to the Plaintiff pursuant to said decree to which report there are no exceptions and the same is confirmed and the said deed made by said Commissioner of said land to said Plaintiff being seen and inspected by the Court is approved of and ordered to be placed in the hands of the Clerk of the County Court of Lee County for recordation and the said Cause being argued by Counsel on Consideration Whereof the Court doth adjudge order and decree that the Complainant recover of the Adult Defendants Bailiffs Shumate and John L D Colson, who have contested the Plfs right to recover <sup>in this case</sup>, his costs by him expended in prosecuting this suit And nothing further appearing necessary for the action of the Court it is ordered that the Cause be Stricken from the Docket



Henry Colson

vs. Final Decree

John Colson & others

Entered Page 430

Enter this decree

J. A. C.  
April 25. 1866

Chs 160



Henry Colson Complainant

vs

In Chancery

John Colson & others Defts

This cause came on to be heard this 13<sup>th</sup> day of October 1860 upon the bill of the Complainant the answer of the Defendants Bailis Shumate & Rebecca his wife John W Colson and Sarah Colson, The answer of William Colson Galena Colson and Harvey Colson infant heirs of Harvey Colson Deed by their Guardian ad litem David Miller, the depositions of witnesses and exhibits filed and was argued by counsel and it appearing that the order of publication made in this case against John Colson jr has been duly posted and published as the law requires and he still failing to appear and answer the Complainant's bill it is ordered that the same be taken for confessed as to him and it moreover appearing to the Court that the Complainant is entitled to a conveyance from the Defendants (heirs at law of <sup>for Harvey</sup> Harvey Colson Deed) of all that part of the tract of land in the bill mentioned lying west of the lane branch being the largest branch that passes through said said tract of land on consideration whereof the Court doth adjudge order and decree that Henry Morgan be and he is hereby appointed a commissioner to convey <sup>separately</sup> from the said Defts heirs at law of Harvey <sup>of Harvey</sup> Colson Deed ~~all that part of the tract~~ to the Complainant Henry Colson all that part of the tract of land in the bill mentioned lying west of the lane branch which is alleged to pass through said tract of land and in the event that said branch does



Not run entirely through said tract of land  
 so as to form a division line between the  
 said parties of said tract of land then that said  
 Commissioner adopt the said branch as the  
 division line of said tract of land so far  
 as it may run through said tract of land  
 and extend the division line through the  
 said tract of land in the direction correspon-  
 -ding with the direction of said Land Branch  
 and run out the said tract of land so  
 as to inform the Court whether the extension  
 of said division line from said branch be a  
 fair and equal division of the said tract of  
 land and make report thereof, together with a  
 plat of said tract of land and division line,  
 to the Court at the next term till which time  
 this cause is continued

Henry Colson

vs Decree-

Geo Colson jr & others

Oct 1830

Enter this  
 S. H. J.

Enter

Oct 18



so follow with a word  
won't say so that will be all  
The deposition of Robert M. Ely taken on the 10th day of November  
1859 at the Residence of Robert M. Ely in Lee County Virginia  
Pursuant to the Accompanying Notice for the purpose of being and  
as evidence in behalf of Henry Colston in a suit now depending  
in the Circuit Court of Lee County Virginia wherein the said Henry  
Colston is Complainant and Sarah Colston John Colston William  
Colston William Colston Harvey Colston Robert Shumate and  
Belle Shumate are defendants. The said Robert M. Ely after  
being first duly sworn deposes and says as follows

1st Question by Henry Colston  
Mr Robert M. Ely do you know the land that John and Henry  
Hays sold to, Harvey Colston and if so state where it lies  
and by whose lands it is bounded

Answer, I do live in Lee County Virginia  
On the waters of Indian Creek and bounded  
On the south by John Colston long ago on  
the west by William Hayes now by Samuel  
Mephorson on the north by Charles Bailey and  
Robert M. Ely on the east by Mill Ely

2nd Question by Henry Colston  
Mr Ely state if you know who the said Hays sold said land  
to and by whom the said Hays received payment for the  
said land and when

Answer - Hayes sold the land to Arty  
Colston as Hayes told me I don't know  
all the payments. I was called on by Henry  
Colston to value two horses as payment to  
said land. I and Matthew Gibson valued them  
Hays received them as a part of the value of said  
land. One of the horses was said to be Henry's  
The other Arty's, I think Henry's was



valued to twenty five dollars or  
eighty five dollars I don't correct know  
I think Arvey's was valued to sixty or sixty five  
dollars

3<sup>rd</sup> Question by same

Mr R. M. Ely did not the house you and Edwin valued  
finish paying for said lands or not

Answer - I think it was in the last payment

4<sup>th</sup> Question by same

Mr Ely who has been in possession of said land west of a  
branch passing through <sup>and called</sup> the land branch from the  
year 1834 until the present

Answer - Henry Colston

5<sup>th</sup> Question by same

Mr Ely, in what year did Arvey Colson depart this life  
and how far does the land in controversy lie from  
where ~~Henry~~ Colson lived and died

Answer - Henry Colston died in 1842 or 43  
and lived in a house three hundred yards of  
said land

6<sup>th</sup> Question by same

Mr R. M. Ely how many acres are there in the tract of land  
in controversy

Answer - I don't know I suppose about  
fifty

7<sup>th</sup> Question by same

Mr Ely at the time you valued said Hares to said Hares did you  
value them as a payment of Arvey Colson or Henry Colson to  
said Hares for said land

Answer - I don't know it was in payment of  
the land purchased by Colston or Hares  
I suppose it was in payment of both of  
them, and further this deponent says not Robert M. Ely

See County Court.

I Moses S Ball <sup>a Justice of said County</sup> do hereby Certify that the foregoing deposition  
was taken <sup>sworn to</sup> and subscribed before me at the time and  
place mentioned in the Caption, and that the deposi-  
- tion is in the handwriting of the witness and subscribed  
by him in my presence and that Henry Colson the  
Complainant, and Sarah Colson and her husband two of  
the defendants and David Miller the Guardian ad litem  
for Celena Colson William Colson and Arvey Colson  
the three infant defendants were present during the exami-  
- nation, and that I am not interested in this suit  
Given under my hand this 30<sup>th</sup> day of September 1859  
M. S. Ball J.P.

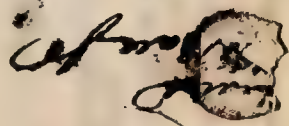
Justice for

16



Richard M. Hambleton  
 Jewellers  
 Virginia

Henry Colson  
 as { Deft  
 John Colson Plaintiff



Henry Colson  
 vs { deposition  
 John Colson & al

Read dealed 10<sup>th</sup> Oct 1839  
 H. M. Hambleton

*[Faint, mostly illegible handwritten text, likely a deposition transcript, covering the right side of the page.]*



1

The Depositions of William J. Novice ~~Samuel M. C.~~  
Pherson John Shumaker William H. Lottner William Rush Enock Rush  
John Colson & James B. Colson

Taken at the residence of Robert H. Lottner in Lee County Virginia on the  
30<sup>th</sup> day of September 1859 pursuant to the accompanying Return for the  
purpose of being used as evidence in behalf Henry Colson in a Suit  
now depending in the Circuit Court of Lee County Virginia wherein  
The said Henry Colson is Complainant and John Colson Sarah  
Colson Walter Shumaker Robert Shumaker Selena Colson William  
Colson and Harry Colson are Defendants. The said Samuel M. C. Pherson  
being first duly sworn deposes and says as follows:  
1<sup>st</sup> Question by Complainant

Mr Samuel M. C. Pherson pleads that what you may have heard  
Henry Colson say in his lifetime relative to the land now in  
controversy between myself and his Widow and him  
at one time as well as my own serves  
me at this time I was walking up the  
branch with Arvey Colson I wanted to  
know you & Henry have bought this  
land the said Henry said I ask him  
how they had said he said within  
this branch now this is the Hays  
land that John & Henry Hays own  
I this branch is known by the name  
of the Lane branch Henry Colson took  
the west side of the branch and Arvey Colson  
the east side of the branch the whole of said  
lands is bounded as follows on the west by  
Wm Sayers now McPherson on the south by  
John Colson <sup>and the widow of Colson</sup> on the east by Robert  
M. Lyle on the north now by said Lyle  
and Charles Bailey  
and further this deponent testifies S. M. C. Pherson



John Shumaker ~~adversely~~ Witness of lawfull age after being duly Sworn deposes  
and says as follows

1<sup>st</sup> Question by Henry Coleman  
Mr Shumaker do you know the land that John and Henry Hays  
gave to Harry Coleman and if so state where it lay and how it  
is bounded

Answer by John Shumaker  
I do not by the land lies in Lee County on the  
waters of Uncom Creek bounded on the west by  
William Hays now by Mr. Pherson the north  
boundary by Charles Bailey and Robert M. Ely the east  
by R. M. Ely on the south by John Calhoun and  
Sally Calhoun

2<sup>nd</sup> Question by Samuel  
Mr Shumaker state what you may have heard Harry Coleman in  
his lifetime say relative to his purchase and paying for half of  
said land that you have above described

Answer by John Shumaker  
Some years ago I was in ~~the~~ at Arvey Calhoun  
and in conversation with myself and Arvey  
Calhoun it was stated to me that  
the land on the western side of the branch  
gunning from the mountain by Henry Calhoun  
was Harry Coleman's

3<sup>rd</sup> Question by Samuel Mr Shumaker state who has been in pos-  
session of all the tract of land you have above described west of said  
branch for the last 15 or twenty years

Answer by John Shumaker  
Harry Calhoun

Question by David Miller Guardian ad litem  
Mr Shumaker do you know who paid the taxes  
for this land and who was the person who bought  
said land there? Ans. I do not

And further this deponent ~~says~~ <sup>thats</sup> not  
~~John Shumaker~~  
~~mark~~

The deposition of William H. Litterel ~~adversely~~ witness of lawfull age after  
having been duly sworn deposes and says as follows

1<sup>st</sup> Question by Henry Coleman  
Mr Litterel state any thing you may have heard Harry Coleman  
in his lifetime or his wife Sarah Coleman <sup>say</sup> ~~in his death~~ about the piece of land  
now in controversy between said Harry's heirs and widow and my  
self

Answer by William H. Litterel  
I never had acquainted with the Arvey Calhoun  
I have heard Sally Calhoun the widow of  
Arvey Calhoun say that the land ought  
to be bought Harry Calhoun if he had this  
noted

Q. by D. Miller Guardian ad litem  
Do you know what land she alluded to at that  
time

3<sup>rd</sup> Question by William H. Litterel  
I dont know I suppose it was the land in  
controversy  
And further this deponent ~~says~~ <sup>thats</sup> not  
I P Off Litterel

The deposition of William J. Torrey an other witness of lawfull  
age after having been duly Sworn deposes and says as follows

1<sup>st</sup> Question by Henry Coleman

Mr Torrey do you know the land that John and Henry Hays deeded  
to Harry Coleman if so state where it lay and how it is bounded

Answer by William J. Torrey I know the Land it lies  
in Lee County Virginia bounded as follows On the  
North by the lands of Charles Bailey and R. M. Ely and on  
the East by R. M. Ely ~~and on the south by the lands of John~~



Colson Sr. and on the west by the lands of Samuel ~~McPherson~~  
formerly the lands of William Hayes ~~Sr.~~

2<sup>nd</sup> Question by same

Mr Norvell State if you And what you know about the Contr  
act of said Hayes and Harvey Colson relative to said land. and  
also State anything you may have heard the said Harvey Colson  
in his lifetime say about not paying for half of said land  
Answer by Mr. J. Norvell I do not know anything about the  
Contract with Arva Colson and Hasis. I heard Arva Colson  
say that himself and Henry Colson had bought <sup>the said</sup> a tract of  
land from the Hases in partnership and <sup>they</sup> paid for it  
in boxed property and had divided it themselves and  
all on the East side of the branch running near where  
the said Henry Colson now lives which he told me was  
the line they had made was his and all on the west of  
said branch was Henry Colson. This conversation was in  
the year 1841.

3<sup>rd</sup> Question by same.

Mr Norvell State who has been in possession of all said tract  
of land you have in your first answer described lying West  
of said branch <sup>in the same</sup> and what <sup>same</sup> branch is known by  
answer by Mr. J. Norvell Henry Colson has been in possession  
of the land and the branch is known by the name of  
the land branch and further this deponent faith that

J. J. Norvell

The deposition of William Bush an other witness of lawfull age  
after having been duly sworn deposes and says as follows

1<sup>st</sup> Question by Henry Colson

Mr Bush do you know the land that John and Henry Hayes  
deeded to Harvey Colson and if so State where it lies and how  
bounded.

Answer by William Bush











8 June 1861 before the other attempt of lawfull ago after  
having been duly sworn deposes as follows

1st Question by Henry Coleman  
Mr Coleman please state what you may know about  
the Making Payments to John and Henry Baro for the  
land now in Controversy between myself and the Widow  
and heirs of Harry Coleman deceased.

Answer: I recollect of being present when  
two notes were valued to. Cases I think they  
was valued by R. McEly & Mather & Johnson  
and my recollection is that one of the  
notes I belonged to Harry Coleman  
and the other notes were payment to the  
widow of Harry Coleman.

~~the other notes were payment to the~~  
~~widow of Harry Coleman.~~  
~~I do not recollect of being present when~~  
~~the notes were valued to.~~  
~~the notes were valued by R. McEly & Mather & Johnson~~  
~~and my recollection is that one of the~~  
~~notes I belonged to Harry Coleman~~  
~~and the other notes were payment to the~~  
~~widow of Harry Coleman.~~  
18 June 1861

I Robert M. Ely Justice of the said County do hereby  
Certify that the foregoing depositions were taken sworn to  
in the presence of the said Harry Coleman and the said  
Sarah Coleman and David Miller two of the defendants and  
that David Miller the guardian of the said three  
infants defendants viz William Coleman, Susan Coleman and  
Arny Coleman were present during the examination and  
that said depositions are in my handwriting and that of  
the said Harry Coleman and the said Sarah Coleman.

And that I have read the same to the said Harry Coleman  
and the said Sarah Coleman and they have acknowledged the same  
as true and correct.



## Bill of Cost

Justices fees Robert M. Ely \$4.50

~~William~~ Samuel M. Phinney .50

Witnesses. William J. Norvell .50

John Shumaker .50

William H. Little .50

William Bush .50

Enoch Bush .50

\$ 7.50

So much of the answer of William H. Little to the first question asked him by comp't in ~~incompetency~~ as gives the statements of Sally Colson, is accepted to as not proper evidence against the other defendants. Feb. 20<sup>th</sup> 1860. Boston, for dep't

Exception sustained

Saml. V. Willerson



Henry Calson  
vs { depositions

John Calson & al

Ad sealed Oct 10<sup>th</sup> 1839  
H. W. Hamblett clerk



Henry Calson  
depositions

Bail's Shoemate<sup>val</sup>

Not sealed 24<sup>th</sup>  
Sept 1860  
R M Hamblin



Henry Colson, Compt. vs. John Colson & others Defts In Chg  
To the Honorable Samuel D. Fulkerson Judge of the  
Circuit court of Lee County.

By a decree of your honor entered in this cause  
on the 23<sup>rd</sup> day of October 1860, the undersigned was appointed  
a commissioner to convey Specially from the said Defts  
heirs at law of Arva Colson Decd, to the complainant Henry  
Colson - all that part of the tract of land in the bill  
mentioned lying west of the lane branch, which is  
alleged to pass through said tract of land, and in the  
event that said branch does not run entirely through  
said tract of land so as to form a division line between  
the said parties of said tract of land; then that said  
commissioner adopt the said Branch as the division  
line of said tract of land so far as it may run through  
said tract of land, and extend the division line through  
the said tract of land in the direction corresponding  
with the direction of said branch, And he was further  
directed to run over the said tract of land, so as to inform  
the court whether the extension of said division line  
from said branch, be a fair and equal division of the  
said tract of land, and to make report thereof together  
with the plat of said land and division line to the court  
at the next term, And your commissioner having  
discharged those requirements would respectfully beg leave  
to report as follows

That on the 30<sup>th</sup> day of March <sup>1861</sup> (your commissioner not  
being himself a Surveyor, procured the services of Eli Davis  
the deputy Surveyor of Lee county) I went with said Davis ~~to~~ the  
land in the bill mentioned, and ran around the same  
according to the said decree by the Decd. filed in this cause  
made by the Haystack Arva Colson, on the 15<sup>th</sup> Nov 1834 A  
plat of said entire tract of ~~land~~ land as laid out by  
said Davis is herewith filed marked A. The bearings  
and distances not being given in said deed I had to



the said land by the courses and distances of contiguous tracts mentioned in said Deed. Letters A, B, C, D, E & F. On said plat will show the entire tract as ran out by said Deed A, B, C, D, E & F. Show that part of said tract of land directed to be conveyed to said Henry Calson by your Com<sup>t</sup>. By the decree aforesaid, which he has accordingly done see Deed filed herewith marked R.

Your commissioner will here remark, that part of the land embraced or seems to be embraced in said Deed is claimed by Robert M. Ely under a patent issued by the commonwealth as your commissioner is informed that part of said tract claimed by said Ely will be seen by a reference to said plat, by figures 8, 11, 5, 6, 7, & 8. Said Ely and those holding under him, are now in possession of that part claimed by him.

Your commissioner, regardless of the claims of said Ely upon said tract of land, has conveyed to said Henry Calson all the land lying west of said division line, considering as he does that, no conveyance made by him will in any <sup>way</sup> affect the rights of the parties, and considering to that the decree aforesaid directed such conveyance to be made. All of which is respectfully Submitted  
H. J. Morgan Com<sup>t</sup>

March 31<sup>st</sup> 1861

### Bill of Costs

7 1/2	Hours in going 30 miles to the land in controversy	\$ 62 1/2
7 1/2	Hours in returning from same place at 15 per hour	\$ 62 1/2
5	Hours engaged in Surveying while there at 15 " "	3.75
3	Hours in making this report at 15 per hour	2.25
	Surveyor for his services	4.00

Charged to Henry Calson

\$ 21.25

H. J. Morgan Com<sup>r</sup>



Henry Colson

vs  $\frac{1}{2}$  Com<sup>r</sup> Report,  
3

John Colson & al

Filed March 31<sup>st</sup> 1861

Jas Morgan, Clk



Henry Colson

as Surveyor & Plat,

John Colson & al

ad



95  
2 1/2  
5 25 375  
37  
5 6 21



# A Will of real and personal estate

I Awa Colson of Lee county and State of Virginia do hereby make my last will and testament in manner and form following that is to say,

1<sup>st</sup> I desire that my mare and colt, one yoke of Oxen some young cattle and some young Hogs and one Man's Saddle be immediately sold after my decease, and out of the Monies arising therefrom, all my just debts and funeral expenses be paid,

2<sup>d</sup> I give to my wife Sary all the household furniture and the benefit of the plantation, four milk cows one brown mare and colt, all the Sheep, 3 hogs and pigs and a sufficient number of hogs for bacon, also the Beggums, to have so long as she remains a widow, and should she marry, then to have her thirs and my Heirs to have the benefit of the remainder of my estate, to be equally divided among them,

I do hereby constitute and appoint my friend William Thompson executor of this my last will and testament, in witness whereof I have hereunto set my hand and affixed my seal this 1<sup>st</sup> day of October 1842

Teste

Awa<sup>his</sup> Colson.  
mark

Silvester Thompson

John Colson

Richard Crabtree

Virginia

At a court begun and held for Lee county at the court House thereof on Monday the 17<sup>th</sup> of October 1842

The last will and testament of Awa Colson deceased was proved by the oaths of Silvester Thompson and John Colson, witnesses thereto and is ordered to be recorded, and on the Motion of William Thompson the executor therein named, who made oath thereto, and together with Joshua Ewing John Colson and Silvester Thompson his Securities, entered into and acknowledged a bond in the penalty of \$500: conditioned as the law



Law agents, certificate is granted him for obtaining a  
probate of the said Will in due form

Teste J. W. Meriden, C. C.  
Copies

Teste  
H. J. Morgan C. C.



Copy Area Colors  
For } Will  
John Shaeffer  

---

See for copy 110

(m.)



This Indenture made and concluded upon this 15 day of November one thousand eight hundred and thirty 1834 Between John Hays, Henry Hays and Susan his wife, of ~~Butterfield County~~ <sup>Georgia</sup> ~~Georgia~~ <sup>State of</sup> ~~Georgia~~ <sup>Georgia</sup> of the one part, and Arva Colson of Lee County and State of Virginia of the other part. Witnesseth that the said John Hays, Henry Hays and Susan his wife for and in consideration of the sum of two hundred and fifty dollars, to them in hand paid by the said Arva Colson, the receipt whereof is hereby acknowledged have bargained and sold to the said Arva Colson a certain tract, or parcel of land, lying and being in Lee County on the waters of Indian Creek; and bounded as follows To wit, Beginning at a stake on the top of the ~~ridge~~ <sup>ridge</sup> between the line of said Hays, and William Sayles on a line of John Colson's, and with the back the back line of said Colson's line North easterly to a branch ~~between~~ <sup>between</sup> a plantation of said Hays of forty two and a half ~~acres~~ <sup>acres</sup> and the land of Robert M. Ely's, thence up said branch with the meanders of the same a North westward course to a small beech, on the bank of said branch, between a high hill and a ridge, thence leaving said branch, up the side of said ridge, nearly a North course to two small white oaks on the side of said ridge, on a line of R. V. S. Crockett's survey, thence with said line to ~~the~~ <sup>the</sup> beginning corner of said survey, thence to the top of a ridge, which is mentioned in the beginning, thence along the top of said ridge 60 poles to the beginning To have and to hold the said tract or parcel of land, containing one hundred and thirty acres, be the same more, or less with all the appurtenances, thereunto belonging, And the <sup>say</sup> John Hays, Henry Hays and Susan his wife for themselves do covenant with the said Arva Colson to warrant and defend the aforesaid premises to the said Arva Colson his heirs, or assigns, free from the claim of ~~themselves~~ <sup>themselves</sup>.



themselves, their <sup>heirs</sup>, or any person claiming under  
 or by them. But it is expressly understood between  
 the parties that the said John Hays, Henry Hays, and  
 Susan his wife are not to defend the aforesaid  
 premises free from older or better title than  
 theirs, but from themselves, their heirs, & they will  
 for ever warrant and defend. In witness  
 whereof they have here unto set their hands and  
 the day and year above written.

Witness  
 Henry Clifton <sup>Junr</sup>  
 Witness  
 Alex H Sutton <sup>Junr</sup> Nov. 17. 1834.

John <sup>Lis</sup> Hays <sup>Mark</sup> <sup>seal</sup>  
 Henry <sup>Lis</sup> Hays <sup>Mark</sup> <sup>seal</sup>  
 Susan <sup>Lis</sup> Hays <sup>Mark</sup> <sup>seal</sup>

State of Tennessee  
 Rutherford County & County Court: November term, 1834.  
 John H. Laughlin, clerk of the County Court of said  
 county, do hereby certify, that the within deed of  
 bargain and sale from John Hays, Henry Hays, and  
 Susan Hays his wife to John Tolson, was presented in  
 open court at the above term, and the execution  
 thereof duly proven by the oaths of Henry Clifton and  
 Alexander H. Sutton, subscribing witnesses thereto. And  
 thereupon the court, consisting of John Fletcher, William  
 Vinson and Henry D. Garrison, Esquires, Justices, proceed-  
 ed to take the private examination of said Susan  
 Hays, wife of said Henry Hays, separate and apart  
 from her said husband, who says she did freely  
 and voluntarily execute the same for the purposes  
 therein specified free from any fear, constraint  
 or coercion of her said husband, and that she does



Hays, wife of Henry Hays, touching the execution of the same, who says she did freely and voluntarily execute the same free from any fear, constraint or coercion of her said husband, for the purposes therein specified, and that she does not now wish to retract therefrom, and ordered that the same be certified for registration in Lee county in the state of Virginia where the said

In testimony whereof I have hereunto set my hand and affixed my seal of office at New-Gessborough, this 17th day of November, 1834.  
John R. Laughlin, Clerk.

State of Tennessee  
Rutherford County, } Act.

John Fletcher, chairman of the county court of said county, do hereby certify, that John R. Laughlin whose official signature appears to the foregoing certificate is the acting clerk of said court, that his said attestation is in due form of law, and that all his official acts are entitled to full faith and credit, in any court or office in the United States.

Given under my hand and seal at the county of Rutherford in the state of Tennessee, this 17th day of November 1834. John Fletcher, ch. Seal



Sam. L. L. L.  
Henry L. L. L.  
H. L. L.

Wm. L. L.

Recorded in Book  
No. 7 page 272

Wm. L. L., chairman  
L. L. L. tax — \$1.00



(L.)



State of Tennessee  
Rutherford COUNTY, to wit:  
Cannon We Isaac Finley Jp

Elijah Stephens Jp

Justices of the Peace in the county aforesaid, in the state of Tennessee, do hereby certify, that

John Hays and Henry Hays

parties to a certain Deed, bearing date on the 15th day of Novr. 1834, and hereto annexed, personally appeared before us, in our county aforesaid, and acknowledged the same to be their act and deed, and desired us to certify the said acknowledgment to the Clerk of the County Court of Lee State of Virginia in order that the said deed may be recorded. Given under our hands and seals this 2nd day of Novr 1834

Isaac Finley Jp  
Elijah Stephens Jp

Henry Hays Seal  
John Hays Seal

State of Tennessee  
Rutherford COUNTY, to wit:  
Cannon We Isaac Finley

Tennessee

Justices of the Peace in the county aforesaid, in the state of Tennessee, do hereby certify, that

Susan Hays wife of Henry Hays

parties to a certain deed, bearing date on the 15th day of November 1834 and hereunto annexed, personally appeared before us, privily and apart from her husband, and having the deed aforesaid fully explained to her the said Susan Hays, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed and delivered the same, and that she wished not to retract it. Given under our hands and seals, this 3 day of November 1834

Isaac Finley Jp  
Elijah Stephens Jp

Susan Hays Seal

At a court begun and held for Lee county at the courthouse thereof on the 20th day of February 1837 this Indenture of bargain and Sale for and between John Hays and Henry Hays and Susan his wife of the one part; and Awa Bolton of the other part; admitted to record upon the certificates of Isaac Finley and Elijah Stephens two Magistrates of Cannon County in the State of Tennessee

John W. S. Morison D



To John Colston Jr Rebecca Shornate & Baile Shornate  
Sarah Coleson Harvey Coleson William Coleson and Elena  
Colson: You will take notice that On the 22<sup>nd</sup> day of August  
1860 at the residence of R. M. Hyatt in Lee County Va I  
will proceed to take the depositions of Henry J. & others  
to be read as evidence upon the trial of the suit in Chancery  
now pending in the Circuit Court of Lee County where I am  
plaintiff and you are defendants & if the said depositions should  
not be completed on said day the taking thereof will be continued  
from day to day and from time to time and if necessary adjourn  
from place to place until the said depositions are taken  
August 1860 Henry Coleson

Lee County Court  
This day Henry J. Colston came be-  
fore me the undersigned a Justice of the peace for  
said County and made oath that he  
delivered a true <sup>copy</sup> of the above notice  
to the care of Henry Colston as above stated  
in the above notice given under my hand  
this 22<sup>nd</sup> August 1860 Robert M. Hyatt



... to ...  
H



Virginia no count so wit

This day J. H. E. J. read same upon  
no J. H. Hamblin Clerk that he believed John Colson  
Jr (son of Sarah Colson, is not a resident of this  
Commonwealth

Given under my hand June 20<sup>th</sup> 1859

J. H. Hamblin Clerk



Calson  
uzi confidant  
Calsonal



Virginia

All Rules held in the Clerks Office of the Circuit Court of Lee County on Monday the 11th day of July 1859.

Henry Calson

Comptt

vs

John Calson jr, Rebecca Shoemate,  
Balis Shoemate, William Calson,  
Selena Calson Harvey Calson  
and Sarah Calson, children &  
heirs at law of Harvey Calson Decd.

In Chancery

Def<sup>s</sup>

The object of the bill is to extract the legal title from the Heirs of Harvey Calson <sup>Decd</sup> to the land in the bill mentioned, and vest the same in Comptt. And it appearing that John Calson jr is not an inhabitant of this Commonwealth, it is ordered that he appear here within one month after due publication of this order & answer the Comptts bill, and that a copy of this order be forthwith inserted in some newspaper published in this Commonwealth for four successive weeks, and a copy also posted at the front door of the Court House of this County

A. Copy - Teste.

R. M. Hamblin Clk

Lee County Court

This day came Richard M Hamblin Clerk of the Circuit of Lee County, before me the undersigned a Commissioner in Chancery in Lee County Virginia and made oath in due form of law that he had posted a copy of the above order at the front door of the Court House of said County Given under my hand this 27th day of July 1859

H. Morgan Comr



Benney Calson  
14, { Order Publication  
John Calson jr. Gal



To John Colson jr Reuben Shumate Bales Shumate Sarah  
Colson Harvey Colson William Colson and Helann Colson  
You will please take notice that I shall on the 30<sup>th</sup> day  
of September 1859 at the residence of Robert M. Ely in Lee  
County Virginia proceed to take the depositions of William  
Thompson William Bush Enoch Bush Samuel M.  
Pherson Robert M. Ely James B. Colson John Colson  
Daniel Settle and others for the purpose (when so  
taken) of being used as evidence in my behalf in a suit  
now depending in the Circuit Court of Lee County Virginia  
wherein I am Complainant and you are Defendants  
I will continue from day to day and from time to  
time until said depositions shall be completed  
Given under my hand August 29<sup>th</sup> 1859  
Henry Colson



John Colson & Son

no Motion

Henry Colson

Said County, To-wit,

This day Job B. Crabtree made oath before me  
the undersigned a Justice of the said County, that he handed to  
Sarah Colson Rebecca Shumate Bala's Shumate William Colson  
Celany Colson and Harvey Colson a true Copy of the within  
Molier more than ten days previous to <sup>the</sup> day 29 day of Sept<sup>r</sup> 1859  
Given under my hand September 1859

Robert M. Ely Jc



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON

*John Colson, Rebecca Shoemate  
Dailies Shoemate Estland Colson, William Colson  
Harry Colson & Sarah Colson,*

to appear before the Judge of our Circuit Court for Lee County, at the Court House, in the Clerk's Office, at Rules  
to be held on the first Monday in *March next* to answer & *Bill*

*in Chancery exhibited against them, & by Colson,*

And have then there this writ. Witness, RICHARD M. HAMBLIN, Clerk of our said Court, at the Court House  
this *23<sup>rd</sup>* day of *March* 185*7*, in the *84<sup>th</sup>* year of the Commonwealth.

*R. M. Hamblin Clerk*



Henry Colson

13 Jan 61

Mr Colson

Dear Sir

April 8th 1859—

Excused on all of  
the within except.

John Colson he is not  
in the Commonwealth  
his mother says he is in  
Kentucky about the  
Craborched

J. Brown D.S.



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON

*John Calson, Rebecca Shoemaker  
Julia Shoemaker Selena Calson, William Calson  
Cary Calson, & Sarah Calson,*

to appear before the Judge of the Circuit Court for Lee County, at the Court House, in the Clerk's Office, at Rules  
to be held on the first Monday in *mar* *185* to answer *a*

*bill in Chancery exhibited against him by Henry  
Calson.*

And have then there this writ. Witness, RICHARD M. HAMBLEN, Clerk of our said Court, at the Court House,  
this *18<sup>th</sup>* day of *March* 185*7*, in the *4<sup>th</sup>* year of the Commonwealth.

*J. M. Hamblen - W. M.  
H. M. Hamblen - W. M.  
H. M. Hamblen - W. M.*



Lee County, Court: or in the

To the Sheriff or any Constable of the Said County  
I Command you in the name of the Commonwealth of Virginia to  
Summon, Daniel Letner Sr William Thompson William J. Torrell  
William Bush ~~Emmett~~ Bush William H. Leland James B. Colson  
Samuel M. ~~Pherson~~ and John Colson to appear on the 30<sup>th</sup> day of  
September 1859 at Robert M. Elg's residence in the said County before  
me or such other Justice of the Said County as may then be then to  
give evidence in behalf of Henry Colson, in a suit depending in  
the Circuit Court of Lee County Virginia wherein the said Henry Colson  
is Complainant and the widow and heirs of <sup>Henry</sup> ~~Henry~~ Colson dec'd are  
respondents

Given under my hand this 24<sup>th</sup> day of September 1859

Robert M. Elg J.P.



We acknowledge the legal service of the within summons  
this 27<sup>th</sup> of September 1859

James B. Keels

M. J. Norville

S. H. Pherson

Emac <sup>this</sup> Byck  
mark

Daniel Pittwell

W. H. Litchell

John Colman

John Colman

Henry Colman

20



VIRGINIA, *Washington County, to wit:*

I do hereby certify that the annexed notice has been published, four weeks successively, in the ABINGDON VIRGINIAN, a newspaper printed in the town of Abingdon and State aforesaid.

Given under my hand *Oct 5<sup>th</sup>* 1859

Printer's fee, \$

*Geo N Barr*  
*Jr Ed. Virginian*

VIRGINIA:

**A**T Rules held in the Clerk's office of the Circuit Court of Lee county, on Monday, the 4th day of July, 1859:

Henry Colson,

Complainant,

vs.

John Colson, jr, Rebecca Shoemate, Balis Shoemate, William Colson, Geland Colson, Harvy Colson, and Sarah Colson, children and heirs at law of Harvey Colson, dec'd,

Defendants.

**IN CHANCERY.**

The object of the bill is, to extract the legal title from the heirs of Harvy Colson, dec'd, to the land in the bill mentioned, and vest the same in complainant: And it appearing that John Colson, jr., is not an inhabitant of this commonwealth, it is ordered that he appear here within one month after due publication of this order and answer the complainant's bill, and that a copy of this order be forthwith inserted in some newspaper published in this commonwealth, for four successive weeks, and a copy also posted at the front door of the Court House of this county. A copy.—Teste,

R. M. HAMBLÉN, Clk.

Aug. 5, 1859—4w



Mr. Henry Colson      See  
1859      To Coale & Barr      Dr  
Aug. 5 To pub. ch. order vs. Mrs. Colson, Dr. Val  
2 sqrs. 4 wks.      \$ 3.75

**VIRGINIA:**

**A** T Rules held in the Clerk's office of the Circuit Court of Lee county, on Monday, the 4th day of July, 1859:

Henry Colson,      Complainant,  
vs.

John Colson, jr, Rebecca Shoemate, Balis Shoemate, William Colson, Geland Colson, Harvy Colson, and Sarah Colson, children and heirs at law of Harvey Colson, dec'd,      Defendants.

**IN CHANCERY.**

The object of the bill is, to extract the legal title from the heirs of Harvy Colson, dec'd, to the land in the bill mentioned, and vest the same in complainant: And it appearing that John Colson, jr., is not an inhabitant of this commonwealth, it is ordered that he appear here within one month after due publication of this order and answer the complainant's bill; and that a copy of this order be forthwith inserted in some newspaper published in this commonwealth, for four successive weeks, and a copy also posted at the front door of the Court House of this county.      A copy.—Teste,

R. M. HAMBLIN, Clk.

Aug. 5, 1859—4w

Received pay

A. M. Crockett  
for Coale & Barr



Henry Colson

Apr 1837



TO JOHN COLSON, JR., REBECCA  
SHUMATE, AND BALIS SHU-  
MATE:

YOU will please take notice that, I shall, on the  
30th day of September, 1859, at the residence  
of Robert M. Ely, Esqr., in the county of Lee, and  
State of Virginia, proceed to take the depositions of  
William Thompson, Samuel McPherson, Robert M.  
Ely, William Bush, Enoch Bush, John Colson, Da-  
niel Littrell, James B. Colson, and others, for the  
purpose of being used as evidence in my behalf in a  
suit now depending in the Circuit Court of Lee coun-  
ty, Virginia, wherein I am complainant and you and  
others are defendants. I will continue from day to  
day, and from time to time, until said depositions  
shall be completed.

HENRY COLSON.

September 2, 1859—4w

1859.  
Jonesville, Oct. 18th

I certify that the foregoing notice to take depositions  
was regularly published for four successive weeks  
in the "Democrat," a newspaper published in the  
Town of Abingdon, Virginia.

Alfred A. Baker,  
Editor